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10/797,368

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Michael L. Bowen

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07/24/2007

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EXAMINER

MAZUMDAR, SONYA

ART UNIT

PAPER NUMBER

1734

MAIL DATE

DELIVERY MODE

07/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,368

Applicant(s)

BOWEN ET AL.

Examiner

Sonya Mazumdar

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-22 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-15, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 16 through 19 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 21, 2007 and is acknowledged. The traversal is on the ground that there is no serious burden to examine all claims and there is no clear indication of separate future classification and field of search. This is not found persuasive because although all claims are directed to methods of supplying medical wrap, Group I (claims 12-15) is directed to supplying medical wrap by a dispenser, Group II (claims 16-19) is directed to supplying medical wrap incorporating use of a cutter and a thermal sealer, and Group III (claim 22) is directed to supplying a medical wrap solely for wrapping surgical instruments. Each group has a distinct method of supplying. Also, as stated in the previous Office Action, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Therefore, the requirement is still deemed proper and is therefore made FINAL.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the wrap in C-folded form of claim 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 13 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Art Unit: 1734

Claim 12 teaches providing a wrap in a roll form in a dispenser, and claim 13, dependant off of claim 12, teaches providing a dispenser housed inside a box. However, the specification does not teach and makes no mention of providing a dispenser housed in a box (see Applicant's specification: page 2, lines 13-14 and Figure 3).

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14, dependant off of claims 12 and 13, teaches a wrap in roll form housed in a box. However, claims 12 and 13 teach a wrap in roll form housed in a dispenser, which is housed in a box. Therefore, it is unclear as to where the wrap is housed in.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 11, 12, and 13 are rejected under 35 U.S.C. 102(e) as being unpatentable by Price et al. (US 6,979,485)

Art Unit: 1734

With respect to claims 11, 12, and 13, Price et al. teach supplying a protective wrap comprising at least a nonwoven fabric layer and a film layer in continuous form (column 7, lines 19-22; column 8, lines 1-2; Figure 3). The wrap is in a roll form (98) and contains transversely located perforations (114) at predetermined lengths throughout the wrap, defining multiple sheets that are detachable after dispensing the desired amount of sheets or the desired length of the wrap (column 8, lines 48-52; column 14, lines 15-21; Figure 15).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under

Art Unit: 1734

37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al. as applied to claim 11 above, and further in view of Roman (US 3,750,873).

The teachings of claim 11 are as described above.

Although Price et al. teach providing a roll (98) in a box with a cutter bar, Price et al. do not specifically teach a box with a serrated outer edge operable to detach a portion of the wrap from the remainder of the roll housed in the box. Roman teaches cutting a sterilizing bag roll with tear perforations, housed in a box having a sharp cutting edge (abstract; column 2, lines 21-26; Figure 3).

It would have been obvious to one having ordinary skill in the art to provide a box having a cutting edge, as Roman taught, and would have been motivated to do so to avoid a later cutting step and instead, dispense a finished product at a desired length.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al. as applied to claim 11 above, and further in view of Steiner (US 1,877,610).

The teachings of claim 11 are as described above.

Price et al. do not specifically teach dispensing a roll adjoined to a table. Steiner teaches unwinding and dispensing sheeting (9) from a roll (10) in a box (4) adjoined to a table (2) (column 3, lines 19-24; Figure 1).

It would have been obvious to one having ordinary skill in the art to dispense sheets from a roll to a table, as Steiner taught, and would have been motivated to do so

Art Unit: 1734

to hold a sheet securely in its place if and when laid out on a table, and then tear off the sheet once it is used (page 1, lines 53-63).

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al. as applied to claim 11 above, and further in view of Arco (US 4,627,427).

The teachings of claim 11 are as described above.

Price et al. do not teach supplying a medical wrap in a fan-folded form. Arco teaches supplying a medical cover sheet (20) in a fan-folded form with various cut lines (A, B, C, D) to yield a cover sheet of a desired length (column 4, lines 38-58; Figure 6).

It would have been obvious to one having ordinary skill in the art to supply a medical wrap in a fan-folded form, as Arco taught, to reduce the transverse dimension of the sheets and thus, reduce space needed to keep the supply of sheets (column 6, lines 30-34).

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al. as applied to claim 11 above, and further in view of the West et al. (US 6,488,222).

The teachings of claim 11 are as described above.

Price et al. do not teach supplying a medical wrap in a C-folded form to be used in a continuous form. West et al. teach providing a roll of C-folded bags, interconnected by a line of perforations to separate the bags at a later time (column 11, line 66 – column 12, line 4; column 12, lines 42-43).

It would have been obvious to one having ordinary skill in the art to supply a medical wrap in a C-folded form, as West et al. taught, and would have been motivated to do so to provide a bag which is less susceptible to tears and is easier to open because

Art Unit: 1734

of it's folds along each side which can readily be unfolded upon dispensing (column 1, lines 18-24 and lines 39-41).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonya Mazumdar whose telephone number is (571) 272-6019. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


SM


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